

Mary K. Alejandro
Acting Regional Solicitor
Daniel J. Chasek
Associate Regional Solicitor
GRACE A. KIM, Trial Attorney (CSBN 247456)
Office of the Solicitor (Sol # 1119433)
United States Department of Labor
350 S. Figueroa St., Suite 370
Los Angeles, California 90071
Direct: (213) 894-3950
Facsimile: (213) 894-2064
Email: kim.grace@dol.gov

Attorneys for Plaintiff

JS-6

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

HILDA L. SOLIS,
Secretary of Labor,
United States Department of Labor,

Plaintiff,

v.

T&P RESTAURANT CORPORATION,
d/b/a **THAI PARADISE RESTAURANT**,
a California corporation;

PRATERNG WINNIE CHU, individually
and as managing agent of the corporate
defendant;

and

DAVID LU, individually and as managing
agent of the corporate defendant,

Defendants.

Case No.
CV11-04935 JFW (MRWx)

CONSENT JUDGMENT

Court Trial Date:
June 26, 2012

Plaintiff, HILDA L. SOLIS, Secretary of Labor, United States Department of Labor (“Plaintiff” or the “Secretary”) and Defendants T&P RESTAURANT CORPORATION, doing business as THAI PARADISE RESTAURANT (“Corporate Defendant”), PRATERNG WINNIE CHU, individually and as managing agent of the Corporate Defendant (“Defendant Chu”) and DAVID LU, individually and as managing

1 agent of the Corporate Defendant (“Defendant Lu”)¹ (the Corporate Defendant, Defend-
2 ant Chu, and Defendant Lu are hereafter collectively referred to as “Defendants”) have
3 agreed to resolve all matters in controversy in the above-captioned civil action and con-
4 sent to entry of this Consent Judgment in accordance herewith:

- 5 A. The Secretary filed a Complaint alleging that Defendants violated provi-
6 sions of Sections 6, 7, 11, 15(a)(2), and 15(a)(5), 29 U.S.C. §§ 206, 207,
7 211, 215(a)(2), and 215(a)(5), respectively, of the Fair Labor Standards
8 Act of 1938, as amended (“FLSA”). (Doc. 1.)
- 9 B. The Secretary and Defendants waive Findings of Fact and Conclusions of
10 Law, and agree to the entry of this Consent Judgment in settlement of this
11 action, without further contest.
- 12 C. Defendants admit that the Court has jurisdiction over Defendants and sub-
13 ject matter of this civil action and that venue lies in the district court for
14 the Central District of California.
- 15 D. Defendants represent that they are entering into this Consent Judgment in
16 order to speedily and efficiently resolve this litigation.

17 It is therefore, upon motion of the attorneys for the Secretary, and for cause
18 shown,

19 ORDERED, ADJUDGED, AND DECREED, that Defendants, their officers,
20 agents, servants, and employees and those persons in active concert or participation with
21 them who receive actual notice of this order, by personal service or otherwise, be, and
22 they hereby are, pursuant to Section 17 of the FLSA, 29 U.S.C. § 217, permanently en-
23 joined and restrained from violating the provisions of Sections 15(a)(2), 15(a)(3), and
24 15(a)(5) of the FLSA, 29 U.S.C. §§ 215(a)(2), 215(a)(3), and 215(a)(5), in any of the
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27 ¹ The Clerk of Court entered default against Defendant Lu (Doc. 10), but default
28 judgment was not sought against him after he appeared at a noticed deposition. Defend-
 ant Lu thereafter became part of settlement proceedings and is a signatory to the instant
 Consent Judgment.

1 following manners:

- 2 1. Defendants shall not, contrary to Section 6 of the FLSA, 29 U.S.C. § 206,
3 employ any employee who in any workweek is engaged in commerce or
4 in the production of goods for commerce, within the meaning of the
5 FLSA, at wage rates less than \$7.25 per hour, or less than the applicable
6 minimum rate as may hereafter be established by amendment to the
7 FLSA.
- 8 2. Defendants shall not, contrary to Section 7 of the FLSA, 29 U.S.C. § 207,
9 employ any employee who in any workweek is engaged in commerce or
10 in the production of goods for commerce, within the meaning of the
11 FLSA, for a workweek longer than 40 hours unless said employee is paid
12 at a rate of time and one-half his regular rate for all hours worked in ex-
13 cess of 40 hours in a workweek.
- 14 3. Defendants shall not fail to make, keep, and make available to authorized
15 agents of the Secretary (for inspection, transcription, and/or copying, up-
16 on their demand for such access) and shall preserve, records of employees
17 and of the wages, hours, and other conditions and practices of employ-
18 ment maintained, as prescribed by regulations issued, and from time to
19 time amended, pursuant to Sections 11(c) and 15(a)(5) of the FLSA, 29
20 U.S.C. §§ 211(c) and 215(a)(5), respectively, and the implementing regu-
21 lations found in Title 29, Code of Federal Regulations, Part 516.
- 22 4. Defendants shall not, contrary to Section 15(a)(3) of the FLSA, 29 U.S.C.
23 § 215(a)(3), discharge or otherwise discriminate against any current or
24 former employee for exercising any right protected by the FLSA.
- 25 5. Defendants, jointly and severally, shall not continue to withhold the pay-
26 ment of \$100,000.00 in unpaid minimum wage and/or overtime pay here-
27 by found to be due under the FLSA to the employees named in the at-
28 tached Exhibit 1. Exhibit 1 shows the name of each employee, the gross

1 back wage amount due to that employee, and the period covered by the
2 Consent Judgment; and it is further

3 ORDERED, ADJUDGED, AND DECREED that Judgment is hereby entered,
4 pursuant to Section 16(c) of the FLSA, 29 U.S.C. § 216(c), in favor of the Secretary and
5 against Defendants in the total amount of \$100,000.00, which represents unpaid back
6 wages as described in Paragraph 5, above; and it is further

7 ORDERED that to satisfy the monetary portions of this Consent Judgment, De-
8 fendants, jointly and severally, shall not fail to deliver to the Secretary's authorized rep-
9 resentatives at the United States Department of Labor, Wage and Hour Division, located
10 at 100 North Barranca Avenue, Suite 850, West Covina, California, 91791, the follow-
11 ing:

- 12 a. On or before March 1, 2012, a schedule bearing the name "Thai Paradise
13 Restaurant," including the employer identification number, residential ad-
14 dresses and phone numbers of Defendants, and showing the names, last
15 known residential addresses, Social Security numbers, and gross back wage
16 amounts owed to each individual as listed in the attached Exhibit 1;
- 17 b. On or before March 1, 2012, a certified or cashier's check or money order,
18 payable to the order of "Wage & Hour Div., Labor" in the amount of
19 \$100,000.00 and with "Thai Paradise Restaurant BWs" written in the sub-
20 ject or memo line of said check or money order;
- 21 c. In the event of a default in the timely making of the payment required under
22 this Consent Judgment, the full amount which then remains unpaid, plus in-
23 terest at the rate of ten percent (10%) per annum, from the date of this
24 Judgment until the amount of this Judgment is paid in full, shall become
25 due and payable upon the Secretary's sending, by ordinary U.S. mail, a
26 written demand to the last business address of Defendants then known to
27 the Secretary;

28 The Secretary shall allocate and distribute the remittances, or the proceeds thereof,

1 to the individuals named in the attached Exhibit 1, or to their estates if that be necessary,
2 in her sole discretion. The Secretary shall be responsible for deducting from the
3 amounts paid to said individuals each individual's share of F.I.C.A. and federal income
4 taxes, and for remitting said deductions to the appropriate federal agencies. Any sums
5 not distributed within a period of one year from the date of receipt of the last such
6 amounts due hereunder, because of an inability to locate the proper individuals or be-
7 cause of such individual's refusal to accept it, shall be deposited by the Secretary into a
8 special deposit account for payment to the proper individuals, and upon such inability to
9 pay said amounts within three years, shall then be deposited into the Treasury of the
10 United States as miscellaneous receipts, pursuant to 29 U.S.C. § 216(c).

11 Defendants shall not request or coerce, directly or indirectly, any current or former
12 employee to return or offer to return to Defendants (or to any other individual on behalf
13 of Defendants) any money previously due or to become due in the future to said em-
14 ployee under the provisions of this Consent Judgment or under the FLSA; nor shall De-
15 fendants retaliate or encourage anyone else to retaliate against any current or former em-
16 ployee because such employee has received or retained money due to him under the pro-
17 visions of this Consent Judgment or under the FLSA or because of said employee's ac-
18 tual or perceived cooperation with representatives from the United States Department of
19 Labor regarding the investigation giving rise to the above-captioned civil action.

20 It is further ORDERED that the filing, pursuit, and/or resolution of this proceed-
21 ing with the entry of this Consent Judgment shall not act as or be asserted as a bar to any
22 action under Section 16(b) of the FLSA, 29 U.S.C. § 216(b), as to any employee not
23 named in the attached Exhibit 1, nor as to any employee named in the attached Exhibit 1
24 for any time period not specified therein; and it is further

25 ORDERED that each party shall bear his, her, or its own fees and other expenses
26 incurred by such party in connection with any stage of this proceeding, including but not
27 limited to attorney's fees, which may be available under the Equal Access to Justice Act,
28 as amended; and it is further

1 ORDERED that this Court shall retain jurisdiction of this action for purposes of
2 enforcing compliance with the terms of this Consent Judgment.

3 The Court directs the entry of this Consent Judgment as a final Order.

4 SO ORDERED.



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6 Dated: 2/22/12

7 THE HONORABLE JOHN F. WALTER
8 United States District Judge
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1 Entry of this Judgment is hereby consented to:

2 For Defendants:

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4 For T&P RESTAURANT CORP., D/B/A THAI PARADISE RESTAURANT:

5 /s/ February 8, 2012
6 Praterng Winnie Chu Date
7 Authorized Agent

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9 For DEFENDANT PRATERNG WINNIE CHU, an individual:

10 /s/ February 8, 2012
11 Praterng Winnie Chu Date
12

13 For DEFENDANT DAVID LU, an individual:

14
15 /s/ February 22, 2012
16 David Lu Date
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18 For the Secretary:

19 M. PATRICIA SMITH
20 Solicitor of Labor

21 MARY K. ALEJANDRO
22 Acting Regional Solicitor

23 DANIEL J. CHASEK
24 Associate Regional Solicitor

25 /s/ February 8, 2012
26 GRACE A. KIM Date
27 Trial Attorney
28 U.S. Department of Labor

EXHIBIT 1Solis v. T&P Rest. Corp., et al.

Last Name of Employee	First Name of Employee	Period Covered (by Work Week Ending Dates)	Gross Back Wages Due
Aroon aka Eng	Wilipda Saeng	05/03/09 – 11/14/10	\$6,626.10
Benjakallayakorn	Saowaluck	11/23/08 – 11/14/10	\$17,687.57
Changngam	Rappeeporn	03/14/10 – 08/29/10	\$1,616.45
Hemhong	Sarinya	11/23/08- 11/14/10	\$19,728.76
Luhxfamevitya	Chinnatit	11/23/08 – 09/13/09	\$2,592.04
Pongpilaipruk	Jira	08/01/10 – 11/07/10	\$1,059.69
Rangrong	Chayapan	11/23/08 – 04/25/10	\$2,596.24
Yaisoon	Narisara	11/23/08 – 11/14/10	\$18,791.86
Yostrakul	Suwanniece	11/23/08 – 11/14/10	\$29,301.29
Total Amount			\$100,000.00